



## 2001 SENATE BILL 464

February 26, 2002 – Introduced by Senator BRESKE, cosponsored by Representative STONE. Referred to Committee on Insurance, Tourism, and Transportation.

1     **AN ACT to amend** 343.23 (2) (b), 343.245 (4) (a) and 343.315 (3) (b); and **to create**  
2             343.245 (3) (c), 343.245 (4) (c) and 343.315 (2) (j) of the statutes; **relating to:**  
3             disqualification from commercial motor vehicle operation for railroad crossing  
4             violations and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the department of transportation (DOT) administers a classified driver license system to implement the requirements of the federal Commercial Motor Vehicle Safety Act and regulations promulgated under that act. The classified driver license system provides a comprehensive single license authorizing the operation of specific classes and types of motor vehicles, including commercial motor vehicles. In addition, DOT disqualifies any driver who has committed certain serious traffic-related offenses relating to commercial motor vehicles from operating a commercial motor vehicle for a certain period of time, up to a lifetime disqualification.

This bill creates a new disqualification by requiring DOT to disqualify any driver who is convicted of a federal, state, or local law, rule, or regulation relating to any of the following railroad crossing violations that occurred while driving or operating a commercial motor vehicle:

1. Failing to stop if always required to do so.
2. Failing to stop if the tracks are not clear (if not always required to stop).
3. Failing to reduce speed and ascertain that the tracks are clear (if not always required to stop).

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4. Failing to have sufficient space to go completely through the crossing without stopping.

5. Failing to obey any official traffic control sign, signal, marking, or other device or the directions of a traffic officer, railroad employee, or other enforcement official.

6. Failing to negotiate a crossing because of insufficient undercarriage clearance.

The period of disqualification is 60 days for a first conviction, or, within a three-year period, 120 days for a 2nd conviction, or one year for a 3rd or subsequent conviction.

The bill also provides that no employer may knowingly allow, permit, or authorize an employee to operate a commercial motor vehicle in violation of any federal, state, or local law, rule, or regulation relating to railroad crossings. The penalty for a violation is a fine of not more than \$10,000.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 343.23 (2) (b) of the statutes, as affected by 1997 Wisconsin Act 84,  
2 is amended to read:  
3           343.23 (2) (b) The information specified in par. (a) must be filed by the  
4 department so that the complete operator's record is available for the use of the  
5 secretary in determining whether operating privileges of such person shall be  
6 suspended, revoked, canceled, or withheld in the interest of public safety. The record  
7 of suspensions, revocations, and convictions that would be counted under s. 343.307  
8 (2) shall be maintained permanently. The record of convictions for disqualifying  
9 offenses under s. 343.315 (2) (h) shall be maintained for at least 10 years. The record  
10 of convictions for disqualifying offenses under s. 343.315 (2) (f) and (j) shall be  
11 maintained for at least 3 years. The record of convictions for disqualifying offenses  
12 under s. 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years  
13 after a licensee transfers residency to another state such record may be transferred

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1 to another state of licensure of the licensee if that state accepts responsibility for  
2 maintaining a permanent record of convictions for disqualifying offenses. Such  
3 reports and records may be cumulative beyond the period for which a license is  
4 granted, but the secretary, in exercising the power of suspension granted under s.  
5 343.32 (2) may consider only those reports and records entered during the 4-year  
6 period immediately preceding the exercise of such power of suspension.

7 **SECTION 2.** 343.245 (3) (c) of the statutes is created to read:

8 343.245 (3) (c) No employer may knowingly allow, permit, or authorize an  
9 employee to operate a commercial motor vehicle in violation of any federal, state, or  
10 local law, rule, or regulation relating to railroad crossings.

11 **SECTION 3.** 343.245 (4) (a) of the statutes is amended to read:

12 343.245 (4) (a) Except as provided in ~~par.~~ pars. (b) and (c), any person who  
13 violates sub. (2) or (3) shall forfeit not more than \$2,500.

14 **SECTION 4.** 343.245 (4) (c) of the statutes is created to read:

15 343.245 (4) (c) Any person who violates sub. (3) (c) shall forfeit not more than  
16 \$10,000.

17 **SECTION 5.** 343.315 (2) (j) of the statutes is created to read:

18 343.315 (2) (j) A person is disqualified for a period of 60 days from operating  
19 a commercial motor vehicle if convicted of a railroad crossing violation, or 120 days  
20 if convicted of 2 railroad crossing violations or one year if convicted of 3 or more  
21 railroad crossing violations, arising from separate occurrences committed within a  
22 3-year period while driving or operating a commercial motor vehicle. In this  
23 paragraph, "railroad crossing violation" means a violation of a federal, state, or local  
24 law, rule, or regulation relating to any of the following offenses at a railroad crossing:

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1           1. If the operator is not always required to stop the vehicle, failing to reduce  
2 speed and determine that the tracks are clear of any approaching train.

3           2. If the operator is not always required to stop the vehicle, failing to stop before  
4 reaching the crossing if the tracks are not clear.

5           3. If the operator is always required to stop the vehicle, failing to do so before  
6 proceeding onto the crossing.

7           4. Failing to have sufficient space to proceed completely through the crossing  
8 without stopping the vehicle.

9           5. Failing to obey any official traffic control device or the directions of any traffic  
10 officer, railroad employee, or other enforcement official.

11           6. Failing to successfully proceed through the crossing because of insufficient  
12 undercarriage clearance.

13           **SECTION 6.** 343.315 (3) (b) of the statutes is amended to read:

14           343.315 **(3)** (b) If a person's license or operating privilege is not otherwise  
15 revoked or suspended as the result of an offense committed after March 31, 1992,  
16 which results in disqualification under sub. (2) (a) to (f), (h) ~~or~~ (i), or (j), the  
17 department shall immediately disqualify the person from operating a commercial  
18 motor vehicle for the period required under sub. (2) (a) to (f), (h) ~~or~~ (i), or (j). Upon  
19 proper application by the person and payment of a duplicate license fee, the  
20 department may issue a separate license authorizing only the operation of vehicles  
21 other than commercial motor vehicles. Upon expiration of the period of  
22 disqualification, the person may apply for authorization to operate commercial  
23 motor vehicles under s. 343.26.

24           **SECTION 7. Initial applicability.**

